

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Amendment of the Commission's Space Station
Licensing Rules and Policies

IB Docket No. 02-34

2000 Biennial Regulatory Review --
Streamlining and Other Revisions of Part 25 of
the Commission's Rules Governing the
Licensing of, and Spectrum Usage by, Satellite
Network Earth Stations and Space Stations

IB Docket No. 00-248

COMMENTS OF SIRIUS SATELLITE RADIO INC.

Sirius Satellite Radio Inc. ("Sirius"), by its attorneys, hereby submits these comments in response to the Federal Communications Commission's *Third Report and Order and Second Further Notice of Proposed Rulemaking* released July 8, 2003 ("*Second Further NPRM*") in the above-captioned proceedings.¹ In its *Second Further NPRM*, the Federal Communications Commission ("FCC" or "Commission") proposed to: (1) extend the electronic filing requirement to all pleadings governed by Part 25 of the Commission's rules; (2) require all Satellite Digital Audio Radio Service ("Satellite DARS") licensees and applicants to use Schedule S for applications and modification applications; and (3) apply the fleet management modification procedure to Satellite DARS and Direct Broadcast Satellite ("DBS") licensees.

¹ *Amendment of the Commission's Space Station Licensing Rules and Policies and 2000 Biennial Regulatory Review -- Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations*, Third Report and Order and Second Further Notice of Proposed Rulemaking In IB Docket Nos. 02-34 and 00-248, 18 FCC Rcd 13486 (2003) ("*Second Further NPRM*"), summarized in *Satellite License Procedures*, 68 Fed. Reg. 53702 (2003) (Notice of Proposed Rulemaking).

Sirius welcomes the opportunity to comment on these proposals. Sirius is one of two licensees offering Satellite DARS and thus would be directly affected by the proposed changes. As discussed below, Sirius supports the Commission's efforts to streamline administrative procedures, reduce regulatory burdens, and increase the efficiency and inclusiveness of electronic filing and fleet management procedures. In particular, Sirius supports the Commission's proposal to extend electronic filing to all pleadings governed by Part 25 of the Commission's rules.

Sirius also supports use of Schedule S but, to the extent that certain sections of Schedule S are not applicable to Sirius or other applicants, Sirius suggests that the Commission update the International Bureau Application and Filing Reporting System ("IBFS") to enable applicants and licensees to respond "Not Applicable." Finally, while the fleet management modification procedure is not relevant to Sirius because it operates a non-geostationary satellite orbit ("NGSO") system, Sirius recommends that the Commission consider streamlining the process to launch a ground spare for use as an in-orbit spare, as it has done for the fleet management modification procedure.

I. ELECTRONIC FILING SHOULD BE EXTENDED TO ALL PLEADINGS GOVERNED BY PART 25 OF THE COMMISSION'S RULES

Sirius supports the Commission's proposal to extend electronic filing requirements to all space station and earth station applications, and all pleadings filed in response to those applications. As the Commission noted in its *Second Further NPRM*, electronic filing maximizes efficiency and minimizes time spent on both the production and review of applications, modifications, and supplemental filings.² Extending electronic filing to all satellite and earth station applications would also simplify Part 25 of the Commission's rules.

² See *Second Further NPRM*, ¶ 84.

Requiring electronic filing for all satellite and earth-station-related pleadings will also enhance the comprehensiveness and uniformity of the filing system. A more inclusive electronic filing system also furthers the goal of facilitating interested parties' and the public's access to information. For example, electronic filing of pleadings would make it possible for interested parties and the public to download all documents relevant to a given proceeding and thus obviate the need to obtain documents in person from the FCC's Public Reference Room. Thus, the Commission should extend electronic filing requirements to all pleadings governed by Part 25 of the Commission's rules.

II. THE COMMISSION SHOULD UPDATE THE IBFS TO ALLOW "NOT APPLICABLE" RESPONSES ON SCHEDULE S

Sirius supports the Commission's efforts to streamline further its application procedures by extending Schedule S to Satellite DARS licensees. Expanding the use of Schedule S will increase the uniformity of applications and modification applications within the industry. Moreover, standardization on Schedule S should further the Commission's goal of producing more efficient review of applications.³

As a technical matter, Sirius requests that the Commission update the IBFS to enable applicants and licensees to respond "Not Applicable" or "N/A" to sections of Schedule S that do not apply to the particular applicant or licensee. Adoption of a standardized form to replace an applicant's narrative provision of information sacrifices to some degree an applicant's flexibility to tailor its response to its individual type of license. Not all sections of Schedule S will apply to all segments of the satellite industry. For example, Section 10 of Schedule S on Space Station Transponders is not relevant to Sirius.⁴ Appropriate use of the phrase "Not Applicable" would

³ See *id.*, ¶ 7.

⁴ See *Second Further NPRM* at 61, FCC Form 312 - Schedule S, Section 10. This section is not applicable to Sirius because it concerns space station transponders.

help tailor Schedule S to individual applicants and licensees. It would also aid the Commission's review of the applications as the phrase would signal that a particular section is not relevant.

Due to the system's current technical limitations, however, applicants are sometimes forced to enter "0" to pass the "validate" process, giving the false impression that a question is relevant. Updating the system to permit an alphabetical "N/A" response to a question in addition to the numerical responses that the system already accepts as valid would improve the accuracy of applicants' responses. Thus, Sirius supports the extension of Schedule S to Satellite DARS applicants and licensees, provided that applicants and licensees are able to specify "Not Applicable" on the form.

III. THE COMMISSION SHOULD STREAMLINE THE PROCESS FOR LAUNCHING SPARE SATELLITES

Sirius is generally supportive of the Commission's recent changes to the notification process for fleet management activities and its proposal to extend the procedure to DBS and Satellite DARS licensees. The *Second Further NPRM* noted that the Commission was not proposing a streamlined procedure for NGSO satellite system modifications.⁵ Thus, Sirius, which operates an NGSO satellite system, would not be subject to the new procedure or the proposed extension to Satellite DARS and DBS licensees who operate a GSO satellite system.

Sirius further recommends that the Commission take this opportunity to expand its streamlining of satellite procedures to include a streamlined procedure for launching spare satellites. The *Second Further NPRM* does not propose to streamline the procedure for launching a ground spare for use as an in-orbit spare; however, Commission consideration of the issue would be useful. In-orbit spare satellites facilitate the provision of flexible and reliable

⁵ See *Second Further NPRM* at 30 n.186.

service to consumers. The availability of in-orbit spares enables prompt replacement of decommissioned satellites.

Sirius therefore suggests that the Commission adopt a notification process to address this issue. Sirius proposes that licensees be permitted to file an application for launch authority in advance of the launch or the need to launch. Then, after the application is granted, the licensee would notify the Commission of the launch date. The licensee would also notify the Commission when the spare satellite will commence operating, should that occur. This proposal is similar to the notification process that has been successful for coordinating fleet management activities, and would further advance the streamlining goal.

IV. CONCLUSION

Sirius commends the Commission's effort to streamline the electronic filing and fleet management procedures. Consistent with the suggestions set forth in these comments, however, the Commission should ensure that it does not overlook the particular needs of Satellite DARS licensees when adopting Schedule S for the entire industry or when streamlining other procedures. Sirius also recommends that the Commission streamline the procedure for launching a ground spare for use as an in-orbit spare.

Respectfully submitted,

SIRIUS SATELLITE RADIO INC.

By: 

Carl R. Frank
Jennifer D. Hindin
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000
Its Attorneys

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